

ATTACHMENT B
FLAT-TAILED HORNED LIZARD HABITAT COMPENSATION AGREEMENT



United States Department of the Interior



Bureau of Land Management
California Desert District
22835 Calle San Juan De Los Lagos
Moreno Valley CA 92553-9046
www.ca.blm.gov

February 6, 2007

In Reply Refer to:
2100 (P)
(CA-610.35)

Mr. Sam Elters
State Engineer
Arizona Department of Transportation
206 South 17th Street
Phoenix, Arizona 85007

Dear Mr. Elters:

The Bureau of Land Management (BLM) in both California and Arizona has been working with the Arizona Department of Transportation (A-DOT) and the Federal Highway Administration to identify how we might assist you in meeting your compensation obligation for flat-tailed horned lizard (FTHL) habitat loss associated with the Area Service Highway (ASH) in Arizona. Construction of the ASH would require acquisition of rights-of-way from BLM Arizona, Bureau of Reclamation - Yuma, and the Department of the Navy, all of whom are signatories to the Conservation Agreement for the FTHL. Under that agreement, those agencies are committed to ensuring that rights-of-way they issue conform to the mitigation and compensation protocols in the Rangewide Management Strategy for the FTHL.

The primary form of compensation is acquisition of private lands within protected FTHL management areas. The interagency Management Oversight Group (MOG), including the U.S. Fish and Wildlife Service (USFWS), oversees implementation of the FTHL Rangewide Strategy. The MOG concluded that there was insufficient suitable habitat in Arizona that could be acquired. The MOG approved habitat areas in California to be acquired and transferred to BLM in support of meeting A-DOT compensation obligations for the ASH.

During discussions with representatives of A-DOT, it became clear that A-DOT could not acquire property in the State of California and turn it over to BLM, even though BLM would have preferred that approach. We explored several options for BLM to accept funds from A-DOT to complete the acquisition of the 4,277 acres of habitat needed to meet your agency's obligations. With regard to land acquisition it is important that you

understand that BLM policy requires that we acquire land only from willing sellers. In BLM's offer to assist you in acquiring these compensation lands, BLM is merely acting as your agent. We are not assuming your obligation for acquiring the total 4,277 acres

In BLM's California Desert District, we have decades of experience with land acquisition projects for habitat compensation and for land acquisition associated with Congressionally designated and funded projects under the Land and Water Conservation Fund (LWCF). Based on this experience, we prepared our best educated estimate of the cost for acquiring compensation lands associated with the ASH.

Attachment 1 - Proffer of Monetary Contribution form is the means for transferring funds to BLM so we can complete the land acquisition process. The Proffer references Attachment 2 which describes BLM responsibilities and provides a detailed cost estimate. The Proffer form also recognizes that the U.S. Fish and Wildlife Service will use this agreement to prepare a Technical Assistance Letter the Federal Highway Administration on the ASH project.

Attachment 2 - Flat-Tailed Horned Lizard Compensation Arizona Department of Transportation (Estimated Land Acquisition Costs) shows a breakdown of anticipated costs for the 5-year project. They include purchase price based on an assumed \$500/acre average price.

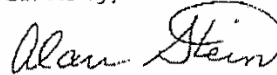
Our estimates also include a "contingency" amount to cover potential increase in the cost of land based on an assumed 7% per year increase. The contingency is included at the request of the U.S. Fish and Wildlife Service to ensure that we would be able to acquire sufficient land to meet your total compensation acreage commitment. The contingency was derived from land value increases estimated in the project area. Other elements within the cost breakdown also show the assumptions used in generating the estimates. The purpose of the contingency is to meet A-DOT's need that you not be billed for additional acquisition funds at a later date.

On our January 29, 2007 telephone conversation, you agreed to provide BLM with two copies of the most current appraisal for the properties potentially to be acquired. We appreciate your sharing the appraisal. We will forward it through our Departmental Appraisal Directorate for approval. The review process should not affect any transfer of funds from A-DOT to BLM.

Please review the attached "Flat-Tailed Horned Lizard Compensation Arizona Department of Transportation - Estimated Land Acquisition Costs" and the Proffer of Monetary Contribution. Please sign two originals of the Proffer and return them to us. When we receive the copies of the signed Proffer, we will execute it and return to you an original signed by both A-DOT and BLM. We will retain the second original. Then we can begin to work with you to complete the process of transferring the funds to BLM.

We appreciate the opportunity that these compensation lands will provide to BLM's enhanced ability for managing public lands. I look forward to working together on our mutual goals. If you have any questions please contact Alan Stein, Deputy District Manager, Resources, on (951) 697-5382 or Scott Eubanks (951) 697-5377.

Sincerely,



Steven J. Borchard
District Manager

Attachment 1: Proffer of Monetary Contribution

Attachment 2: Flat-Tailed Horned Lizard Compensation - Arizona Department of
Transportation - Estimated Land Acquisition Costs

cc: CA-670 BLM El Centro Field Office
CA-610 BLM California Desert District
CA-930 BLM California State Office

Mike Taylor
Bureau of Land Management
Arizona State Office
One North Central Avenue, Suite 800
Phoenix, AZ 85004-4427

Becky Heick
Bureau of Land Management
Yuma Field Office
2555 E. Gila Ridge Road
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Federal Highway Administration
400 E. Van Buren, Suite 410
Phoenix, AZ 85004

Field Supervisor
U.S. Fish and Wildlife Service
2722 Loker Ave W # D
Carlsbad, CA 92010

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
PROFFER OF MONETARY CONTRIBUTION

State	_____
Office	_____
Project Number Assigned	_____
Project Number Assigned	_____
INSTRUCTIONS	
Submit one copy to each contributor. Field Office grazing case file, and Field Office project file.	

I Name(s)	Address(es) (include zip code)
Arizona Department of Transportation	206 South 17th Street
Attn: Mr. Sam Elters, State Engineer	Phoenix, Arizona 85007

do hereby contribute the sum of \$ 4,032,000 to the Bureau of Land Management. Contributions are made under the provisions of Section 9 of the Taylor Grazing Act (43 U.S.C. 315h), as amended, and Section 307(c) of the Federal Land Policy and Management Act (43 U.S.C. 1737). Specifically this contribution is for the purpose of *

providing funds to purchase habitat for the flat-tailed horned lizard (FTHL) as compensation for habitat lost to construction of the Area Service Highway. Issuance of rights-of-way by the Bureau of Reclamation, BLM and the Department of the Navy are contingent on compliance with the 1997 Conservation Agreement concerning the FTHL. We understand the U. S. Fish and Wildlife Service will issue a Technical Assistance letter to Federal Highway Administration describing habitat compensation to lessen the adverse impacts to FTHL. BLM is authorized to acquire lands for habitat compensation (according to Flat-Tailed Horned Lizard Compensation, Arizona Department of Transportation, Estimated Land Acquisition Costs - January 30, 2007) in conformance with the California Desert Conservation Area Plan, prepared in compliance with the FLPMA, Section 601, which requires BLM to develop a plan to "... provide for the immediate and future protection and administration of the public lands in the California Desert within the framework ... of multiple use and sustained yield, and the maintenance of environmental quality." The CDCA Plan (amended February 25, 2005) incorporated the Flat-tailed Horned Lizard Rangewide Management Strategy, 2003 Revision. The strategy describes habitat compensation for projects impacting FTHL habitat in AZ and CA and is a basis for the Conservation Agreement and Technical Assistance letter. If, after 4,277 acres are acquired, there is a balance in the compensation purchase fund, A-DOT, in cooperation with BLM and USFWS, the funds would be available to meet A-DOT's compensation requirements for other highway projects.

II. The unexpended balance, if any, remaining after completion of the work described in the paragraph above shall be:	III. Contribution, made payable to the Bureau of Land Management, is attached in the form of (specify check, money order, etc.)
<input type="checkbox"/> Returned to the contributor(s)	
<input type="checkbox"/> Used for general purposes*	

Signature of Contributor	Title (as applicable)	Date
Signature of Contributor	Title (as applicable)	Date
Signature of Contributor	Title (as applicable)	Date
Signature of Contributor	Title (as applicable)	Date
Signature of Contributor	Title (as applicable)	Date

Accepted in behalf of the Secretary of the Interior for deposit in the Treasury of the United States and for expenditure for the purpose specified herein

Signature of Authorized Officer	Title	Date
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*Contributions for general purposes are accepted to help pay for the expenses of construction or application of conservation and range improvement projects in general, including project planning and design if so specified, or for the payment of expenses incident to the administration, use, protection, and improvement of lands in the district where this contribution is received. Such contributions shall not be used for specific administrative purposes, such as the payment of

salaries of named individuals or positions, or the performance of specific functions by such individuals, or the maintenance of offices at particular locations unless approved by the Director. The contribution shall not be used for any purpose at variance with existing Bureau policy, regulation, or law regarding the development, conservation and use of the public lands.

**Flat-Tailed Horned Lizard Compensation
Arizona Department of Transportation
(Estimated Land Acquisition Costs)**

Land Purchase Funds

Land Value - based on \$500/acre to acquire 4,277 acres (the validity of this value is within a range of values and is contingent on the approved appraised value – this is only an estimate)	\$ 2,139,000
Contingency - land value increase at 7%/year for the 5-year project:	
Year 1: 800 acres at \$500 = \$400,000	
Year 2: 1,000 acres at \$535 = \$535,000	
Year 3: 900 acres at \$572 = \$515,000	
Year 4: 900 acres at \$612 = \$551,000	
Year 5: 677 acres at \$655 = \$443,000	
Total:	\$ 305,000
BLM indirect Costs (Denver Business Center 19%)	\$ 468,000
TOTAL	\$ 2,912,000

Other acquisition costs for FTHL Project

Environmental Site Assessments – ESAs (54 parcels at assumed average size of 80 acres/parcel)	\$ 162,000
Appraisal updates when ready to purchase to keep them current (54 parcels at \$4,000/appraisal update)	\$ 216,000
BLM California administrative costs (contracting, task orders, tracking 2-4 contracts/year for 5 years (contracts, issue task orders, contract management, financial tracking)	\$ 50,000
Department of the Interior Appraisal Directorate (prepare Statements of Work, review and document approval of appraisals, contracts for appraisals through GovWorks)	\$ 60,000
GIS project setup and maintenance and tracking	\$ 25,000
15% BLM direct costs (realty staff & operations – California)	\$ 321,000
Endowment (actions to restore and enhance FTHL habitat - \$25/acre)	\$ 107,000
BLM indirect costs (19% Denver Business Center – by policy)	\$ 179,000
TOTAL	\$ 1,120,000

Land Purchase Funds	\$ 2,912,000
Other acquisition costs	\$ 1,120,000
Total compensation land purchase needs	\$ 4,032,000

Acreage figures used in this estimate, (acreage to be acquired each year) should not be viewed as commitments on the part of BLM. They are estimates necessary to compute the itemized costs. USFWS will provide Technical Advice letter to Arizona Department of Transportation.

January 30, 2007

BLM California Desert District work for 15% California direct costs.

Case file management

Data entry – LR-2000 (BLM lands and records management system)

Coordination of appraisal approval with Department of Interior Appraisal Directorate

Title review and approval

Property Inspections (Certificates of Inspection and Possession)

Management of Escrow and Title matters prior to closing to ensure suitability for BLM

Provide consolidated Title Opinions (Preliminary and Final)

Pay for Title Insurance

Incorporate acquired land into Title and Records (Master Title Plats)

Reports to FTHL Management Oversight Group (MOG), to U.S. Fish and Wildlife Service,
and to Arizona Department of Transportation

January 30, 2007